



# OLR RESEARCH REPORT

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## CONNECTICUT TRANSFER ACT

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You asked what real property and business operations are subject to Connecticut's property transfer law and, if subject to it, the law's requirements.

### SUMMARY

Connecticut's property transfer law, commonly referred to as the "Transfer Act," regulates the transfer of certain polluted real properties and business operations in the state ("establishments"). By law, an establishment includes real property (i.e., land) on which or a business operation from which hazardous waste was generated or processed, or a dry cleaning, furniture stripping or vehicle body repair business operated. It generally requires the disclosure of (1) environmental conditions and (2) in some cases, investigation and remediation. It also protects a property transferee by allowing him or her to recover damages from a transferor who fails to comply with the act.

To certify the establishment's condition, the act requires certain forms to be completed and filed with the Department of Energy and Environmental Protection (DEEP). DEEP reviews the forms for completeness and contacts the appropriate party if it needs more information. Based on the information provided, further investigation and remediation or monitoring may be required by DEEP or a licensed environmental professional (LEP).

The Transfer Act contains numerous exemptions based on the nature of, and sometimes the parties involved in, the process for changing ownership. For example, the act does not apply to conveying or extinguishing an easement or conveying a security interest.

This report focuses on what establishments are subject to the Transfer Act and their primary filing responsibilities. It does not discuss filing fees or procedure, including submission timeframes for notice and DEEP response, and the process of subsequent investigation and remediation oversight by DEEP or a LEP. (By law, under certain circumstances, an environmental professional licensed by DEEP may verify that an investigation has been performed at a specific property according to certain standards and that pollution has been remediated ([CGS § 22a-133v](#)).)

DEEP provides more information about these aspects of the property transfer law on its Property Transfer Program website, [http://www.ct.gov/dep/cwp/view.asp?a=2715&q=325004&depNav\\_GID=1626](http://www.ct.gov/dep/cwp/view.asp?a=2715&q=325004&depNav_GID=1626), and in its program factsheet: [http://www.ct.gov/dep/cwp/view.asp?a=2715&q=325006&depNav\\_GID=1626](http://www.ct.gov/dep/cwp/view.asp?a=2715&q=325006&depNav_GID=1626).

## **TRANSFER ACT**

The Transfer Act ([CGS §§ 22a-134](#) to [134e](#)) requires a transferor (or in some cases, a party associated with the transfer) to disclose the environmental condition of certain real property and business operations when a transfer occurs.

The act applies to the transfer of an establishment which the act defines as any real property where or business operation from which (1) more than 100 kilograms (approximately 220 pounds) of hazardous waste was generated in any one month after November 18, 1980, except from remediating polluted soil, groundwater, or sediment; (2) hazardous waste generated off-site is disposed of, recycled, reclaimed, reused, stored, handled, treated, or transported; or (3) a dry cleaner, furniture stripper, or vehicle body repair facility was located on or after May 1, 1967 ([CGS § 22a-134\(3\)](#)).

The act enables a transferee to recover damages from a transferor who fails to comply with the act's provisions. It makes the transferor of an establishment who fails to comply strictly liable for all remediation costs and damages ([CGS § 22a-134b](#)).

## Certification

When a transfer occurs, a certification form must be completed and filed with DEEP. The type of form depends on (1) the environmental condition of the establishment and (2) whether real property is involved in the transfer. DEEP provides two versions of the forms below. One version is for transfers that only involve business operations and the other is for transfers that involve real property. The DEEP commissioner reviews submitted forms for completeness. In all transfers an investigation performed according to prevailing standards and guidelines is required. The table below generally describes the Transfer Act's forms.

**Table 1: Transfer Act Forms**

<b>Form/Property Status</b>	<b>Description</b>
Form I: Clean	Filed when (1) an investigation is performed and there has been no hazardous waste or substance release at the establishment or (2) no hazardous waste release has occurred and DEEP determines or a LEP verifies that any hazardous substance release has been remediated to DEEP standards. Only a transferor can file this form.
Form II: Hazardous Release but Cleaned Up	Filed when an investigation has been performed and (1) a hazardous waste or substance release has occurred at the establishment, but DEEP determines or a LEP verifies that any pollution has been remediated; (2) DEEP determines or a LEP verifies that no remediation is necessary to comply with remediation standards; or (3) a Form IV was previously submitted to DEEP and, based on an investigation, no release of hazardous waste or substance has occurred since then.
Form III: Unknown Condition or Hazardous Release	Filed to certify that (1) a hazardous waste or substance release has occurred at the establishment but has not been remediated or (2) the environmental conditions at the establishment are unknown. The certifying party agrees to investigate and remediate pollution caused by any release of a hazardous waste or substance from the establishment.
Form IV: Cleaned Up but Monitoring Required	Filed by a party to a transfer when there has been (1) an investigation, (2) a hazardous waste or substance release, and (3) DEEP determines or a LEP verifies that remediation at the establishment has been completed but post-remediation or monitoring is required or on-going. The certifying party agrees to take additional action if necessary.

Source: [CGS § 22a-134](#) and DEEP Property Transfer Program Factsheet, [http://www.ct.gov/deep/cwp/view.asp?a=2715&q=325006&depNav\\_GID=1626](http://www.ct.gov/deep/cwp/view.asp?a=2715&q=325006&depNav_GID=1626)

A DEEP-prescribed Environmental Condition Assessment Form (ECAAF) that describes the parcel's environmental conditions must be submitted with forms I, III, and IV. DEEP reviews the ECAAF to determine if it or a LEP should oversee investigation and remediation in a form III or IV filing. It considers the environmental condition, risk to human health, and sensitivity to surrounding land. Additional documents may be required depending upon the type of form filed such as a schedule for groundwater monitoring, a LEP verification, or an environmental land use restriction.

## ***Exemptions***

Under the Transfer Act, the following actions are not considered establishment transfers and therefore excluded from the act's requirements:

1. conveyance or extinguishment of an easement;
2. conveyance of an establishment through a foreclosure, including municipal tax liens or a tax warrant sale, exercise of eminent domain or condemnation, purchase by a municipality under eminent domain as a brownfield, and certain transfers by involving a municipality, municipal economic development agency or certain municipally-created nonprofits or corporations;
3. conveyance of a deed in lieu of foreclosure to certain lenders;
4. conveyance of a security interest;
5. termination of a lease and conveyance, assignment, or execution of a lease for a term of less than 99 years;
6. changes in ownership approved by the Probate Court;
7. devolution of title to a surviving joint tenant, a trustee, executor, or administrator, under the terms of a testamentary trust or will, or by intestate succession;
8. corporate reorganization not substantially affecting ownership;
9. issuance of stock or securities of an entity that owns or operates an establishment;
10. transfer of stock, securities, or ownership interests of less than 40 percent of the ownership of an entity that owns or operates the establishment;
11. conveyance of an interest in an establishment where the transferor is a certain relative of the transferee;
12. conveyance of an interest in an establishment to the trustee of an inter vivos trust created by the transferor to benefit certain relatives;

13. conveyance of a portion of a parcel that has no establishment located upon the portion and (a) there has been no discharge, spillage, uncontrolled loss, seepage, or filtration of hazardous waste and (b) the portion is 50% or less than the parcel area or DEEP receives notice and an environmental assessment form of the conveyance;
14. conveyance of a service station;
15. conveyance of an establishment developed before July 1, 1997 for residential use and the use has not changed;
16. conveyance of an establishment to certain developers of projects under urban renewal or redevelopment statutes, an urban rehabilitation agency, a municipality for certain projects, or the Connecticut Development Authority or its subsidiary;
17. conveyance of a parcel necessary to develop Adriaen's Landing in Hartford and the football stadium in East Hartford;
18. conversion of a general or limited partnership to a limited liability company (LLC);
19. transfer of general partnership property held in the names of all general partners to a general partnership that includes all general partners as new partners;
20. transfer of general partnership property held in the names of all general partners to a LLC that includes all general partners as new members;
21. acquisition of an establishment by a governmental or quasi-governmental condemning authority;
22. conveyance of real property or a business operation that would qualify as an establishment because of (a) generating more than 100 kilograms of universal waste (certain batteries, pesticides, thermostats, lamps, and used electronics) in a month; (b) storing, handling, or transporting universal waste generated off-site; or (c) universal waste transfer facility activities, under certain conditions;
23. conveyance of a unit in a residential common interest community under certain circumstances;

24. acquisition of an establishment in the abandoned brownfield cleanup program and subsequent transfers of the establishment, if the property is undergoing remediation or is remediated;
25. transfer of title from a bankruptcy court or a municipality to a nonprofit organization;
26. acquisition of an establishment in the brownfield remediation and revitalization program and subsequent transfers of the establishment, if certain conditions are met;
27. conveyance of an establishment acquired to undertake or complete a certified redevelopment project if it was investigated and remediated under DEEP's Voluntary Site Remediation Program; and
28. conveyance of certain airport properties from the Department of Transportation to the Connecticut Airport Authority ([CGS § 22a-134\(1\)](#), [PA 12-196](#), [PA 12-183](#)).

Even if an exemption applies to a property transfer, reconveyance of a property or business operation may be subject to the act's provisions, if an exemption is not applicable to the reconveyance.

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